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SPECIFIC GROUPS AND INDIVIDUALS: MASS EXODUSES AND DISPLACED PERSONS

Written statement*/ submitted by North-South XXI, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 December 2000]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

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Specific groups and individuals: Mass exodus and displaced persons

Lebanon

1. It has now been nearly five years since the Israeli Defense Forces (IDF) perpetrated what became known as the Qana Massacre. On 18 April 1996, shortly after 2:00 p.m. the IDF began an artiliery bombardment of the headquarters compound of the Fijian battalion of the United Nations Interim Force in Lebanon (UNIFIL) in Qana. At the time, approximately 800 Lebanese civilians were being sheltered inside the compound. At least 106 civilians were killed and scores more, along with UNIFIL troops, were injured. Fifty two of the dead were children. The IDF artillery unit that fired on the UNIFIL base was positioned inside of Lebanon.

2. Israel denied that it intended to kill civilians when it shelled the UNIFIL compound in Qana. However, an investigation of the incident conducted by Major-General Franklin van Kappen , Military Advisor to the former Secretary General of the United Nations, Boutros Boutros Ghali, found that it was "unlikely that the shelling was the result of gross technical or procedural error." The critical facts that led General van Kappen to this conclusion were: (1) the pattern and distribution of impacts, which showed the majority of shells falling on or in the immediate vicinity of the buildings in the compound; (2) the perceptible shift in the weight of fire from an initial barrage that fell on the mortar site to a second barrage that fell on the United Nations compound; and (3) that there were two Israeli helicopters and a remotely-piloted vehicle (drone) flying above the Qana area at the time of shelling.

3. Approximately two thirds of the shells used were proximity-fuse which explode above the target, spreading huge sheets of shrapnel. Because of the type of ordnance employed, many of the civilians sheltering inside the compound were torn to pieces, some were decapitated and burnt beyond recognition.

4. Evidence that the attack was deliberate is abundant. Director of Israeli Artillery, Brigadier General Dan Harel, confirmed in an interview on CNN on May 7, 1996 that the Israeli Defense Forces had been informed by UNIFIL only two days prior to the incident that there were some 5,000 to 9,000 refugees sheltering in UNIFIL bases in the area. UNIFIL spokesperson Timor Goksel told the press that he had informed the IDF that civilians were sheltering in UNIFIL bases. Major General Moshe Ya'alon, the head of IDF intelligence, also confirmed Israel was fully aware that civilians were sheltering on the base.

5. Israel adamantly denied that it had a drone or surveillance aircraft over Qana until The Independent, a British newspaper reported that a videotape had been taken by a United Nations soldier at a base nearby depicting a drone over Qana during the shelling. Drones are typically used to guide gunners in firing at objectives that they cannot otherwise see. Thereafter, Israel admitted to the presence of a drone, but claimed it was on 'another mission.' Israel then released only four minutes of the fifty minutes of videotape that it possesses taken by its drone. The release of that footage indicates that the drone was successfully transmitting images of the scene. The fact that the IDF had a drone over Qana at the time it was firing artillery at the United

Nations compound indicates that it was using the drone to determine where to fire, and it was able to see where each shell fell.

6. Additional evidence that the shelling was deliberate is that, according to UNIFIL officials, the IDF was repeatedly informed by telephone that it was shelling civilians. UNIFIL officials told the press that only one or two minutes into the barrage, they contacted Israel and informed it that its forces were shelling their base. For at least 11 to 12 minutes after the initial UNIFIL contact was made, the IDF continued to fire artillery at the base despite continued frantic requests by UNIFIL to cease fire.

7. The report by Major-General Franklin van Kappen confirms that the orders to fire came from Israeli officers of some level of seniority. Under intense political pressure from Israel and the United States, the United Nations dropped the investigation and never revealed to the public the underlying evidence and findings upon which the Van Kappen report was based. No final report on the Qana Massacre was ever published.

8. The Qana Massacre is only one of a multitude of incidents constituting persistent and gross violations of the human rights of Lebanese civilians perpetrated by Israel. It is also one instance where the UN possesses or controls the evidence necessary to establish Israel's responsibility for these violations.

9. A compelling reason for the United Nations to reopen the investigation of the Qana Massacre is that the UN has in its possession or control key evidence surrounding the massacre - its very forces in fact conducted the principal investigation in the immediate aftermath. Only the United Nations is privy to that evidence. Moreover, the massacre occurred on a UN base and UN troops and personnel were fired on. And, as the evidence establishes, those UN troops were fired on intentionally.

10. Israel must be found responsible for its violations of international law and its human rights abuses of Lebanese civilians. These violations include violations of the guarantees of the right to life under the International Covenant on Civil and Political Rights, under the International Convention on the Rights of the Child and other instruments; the protection of civilians from attack guaranteed under humanitarian law including the Geneva Conventions of 12 August 1949 and the Protocols Additional; the prohibition against torture under the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment and other instruments; and the prohibition against genocide under the Convention on the Prevention and Punishment of the Crime of Genocide.

11. For legal and moral reasons, the United Nations must act in this matter on behalf of its own soldiers, and on behalf of the Lebanese civilians who were murdered while in the custody and under the protection of UNIFIL soldiers, on territory clearly demarcated as a United Nations base. The effectiveness and, indeed, relevance of the United Nations and its human rights agencies will be measured not by how eloquently it articulates its principles - but rather by how it puts them into practice.

12. Despite the fact that the United Nations bore witness to this massacre, was itself the target, its soldiers among the victims, and it remains in possession of evidence establishing Israel's culpability in this crime, the United Nations maintains its silence.

Despite the fact that many of the victims filed with the Commission a lengthy, detailed complaint supported by evidence of Israel's responsibility for this massacre, and some even made oral appeals to the Commission to uncover the truth and to issue a finding with regard to Israel's legal responsibility for the massacre, the Commission also has remained silent in the face of this atrocity.

Our Recommendations to the Commission on Human Rights

13. We recommend that the Commission request from the Secretary General of the United Nations either a re-opening of the investigation into the massacre, the publishing of a final report, and the release of all of the evidence and information underlying the findings in the van Kappen Report.

14. Alternatively, we request that the Commission appoint a special rapporteur to conduct a thorough investigation into the Qana massacre, and into other gross violations of human rights and international law by Israel in Lebanon including, inter alia, the attack on the UNIFIL compound in Mazdal Zoun a few days prior to the Qana Massacre; the deliberate targeting of civilian homes, vehicles and ambulances, including an incident in Mansuri, Lebanon in which an Israeli helicopter gunship attacked an ambulance killing two women and four children; and the forced evacuation of hundreds of thousands of civilians from their homes in south Lebanon.

15. Finally, we request that the Commission issue a full and complete report of Israel's legal responsibility for the above-mentioned abuses as well as those that are ongoing, and determine appropriate modes of reparations, as well as specific measures to ensure against further violations of international law and human rights by Israel in Lebanon.